

Miami Beach Redevelopment Agency

**City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
January 11, 2006**

Chairman of the Board David Dermer
Member of the Board Matti Herrera Bower
Member of the Board Simon Cruz
Member of the Board Luis R. Garcia, Jr.
Member of the Board Saul Gross
Member of the Board Richard L. Steinberg
Member of the Board Jerry Libbin

Executive Director Jorge M. Gonzalez
Assistant Director Tim Hemstreet
General Counsel Murray H. Dubbin
Secretary Robert E. Parcher

AGENDA

1. ROLL CALL

2. OLD BUSINESS

3. NEW BUSINESS

- A A Resolution Of The Chairman And Members Of The Miami Beach Redevelopment Agency Ratifying A Settlement Agreement And Release Between The City And The Tower Group In Full And Final Settlement And Release Of All City Claims For Damages Against Both Entities For The Scope Of Work For The Regional Library Project, In The Amount Of \$150,000.00, And Further Appropriating \$150,000 To The City For Said Settlement From City Center Redevelopment Area Funds. (Page 550)
(Capital Improvement Projects)

End of RDA Agenda



HOW A PERSON MAY APPEAR BEFORE THE REDEVELOPMENT AGENCY OF THE CITY OF MIAMI BEACH, FLORIDA

The regularly scheduled meetings of the Redevelopment Agency are established by Resolution and are generally held on the same day the Miami Beach City Commission holds their regularly scheduled meetings. The Redevelopment Agency meetings commence at 10:00 a.m.

1. Jorge M. Gonzalez has been designated as the Agency's Executive Director.
Robert Parcher has been designated as the Agency's Secretary.
2. Person requesting placement of an item on the agenda must provide a written statement to the Agency Executive Director, 4th Floor, City Hall, 1700 Convention Center Drive, telephone 673-7285, outlining the subject matter of the proposed presentation. In order to determine whether or not the request can be handled administratively, an appointment will be set up to discuss the matter with a member of the Executive Director's staff. Procedurally, "Request for Agenda Consideration" will not be placed upon the Agency agenda until after Administrative staff review. Such review will ensure that the issue has been addressed in sufficient detail so that the Agency members may be fully apprised of the matter to be presented. Persons will be allowed three (3) minutes to make their presentation and will be limited to those subjects included in their written request. Such written requests must be received in the Executive Director's office no later than noon on Tuesday of the week prior to the scheduled Agency meeting to allow time for processing and inclusion in the agenda package.
3. Once an agenda for the Redevelopment Agency meeting is published, and a person wishes to speak on items listed on the agenda, he/she may call or come to the Agency Secretary's Office, 1st floor, City Hall, 1700 Convention Center Drive, telephone 673-7411, before 5:00 p.m., on the Tuesday prior to the Agency meeting and give their name, the agenda item to be discussed and, where known, the agenda item number.

Copies of the Agency agenda may be reviewed at the Agency's Secretary Office (City Clerk's Office) on the Monday prior to the Agency's regular meeting.

The complete agenda, with all backup material, is available for inspection on the Monday prior to the Agency meeting at the Agency Secretary office (City Clerk's Office).

4. All persons who have been listed by the Agency Secretary to speak on the agenda item in which they are specifically interested, will be allowed up to three (3) minutes to present their views.

Robert Parcher
Agency Secretary

March 7, 2001



**2006 Schedule of City of Miami Beach
City Commission and Redevelopment Agency (RDA) Meetings**

Meetings begin at 9:00 a.m. and are held in the City Commission Chambers, 3rd Floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida.

CITY COMMISSION MEETINGS

January 11 (Wednesday)

February 8 (Wednesday)

March 8 (Wednesday)

April 11 (Tuesday)

May 10 (Wednesday)

June 7 (Wednesday)

July 12 (Wednesday)

August - City Commission in Recess

September 6 (Wednesday)

October 11 (Wednesday)

November 8 (Wednesday)

December 6 (Wednesday)

ALTERNATE MEETINGS

January 18 (Wednesday)

February 15 (Wednesday)

March 15 (Wednesday)

April 18 (Tuesday)

May 17 (Wednesday)

July 26 (Wednesday)

October 18 (Wednesday)

November 15 (Wednesday)

December 13 (Wednesday)

The "alternate" City Commission meeting date have been reserved to give the Mayor and City Commission the flexibility to carry over a Commission Agenda item(s) to the "alternate" meeting date, if necessary. Any Agenda item(s) carried over will be posted on the City's website, aired on Government Channel 20, or you may call the City Clerk's office at 305-673-7411.

Dr. Stanley Sutnick Citizens' Forum will be held during the first Commission meeting each month. The Forum will be split into two (2) sessions, 1:30 p.m. and 5:30 p.m. Approximately thirty (30) minutes will be allocated per session for each of the subjects to be considered, with individuals being limited to no more than three (3) minutes. No appointment or advance notification is needed in order to speak to the Commission during this Forum.

Condensed Title:

A Resolution of the Redevelopment Agency appropriating funds for a Settlement Agreement between the City and The Tower Group for the Regional Library, in the amount of \$150,000.00, from the City Center RDA fund.

Key Intended Outcome Supported:

Ensure well-designed quality capital projects.

Issue:

Shall the Redevelopment Agency (RDA) Board appropriate the funding for the settlement with The Tower Group on the Regional Library project?

Item Summary/Recommendation:

Following the execution of the construction contract in the amount of \$7,195,069, The Tower Group (TTG) was issued a Notice to Proceed (NTP) on May 6, 2002. A Contract schedule of 426 days was established with a projected completion date of July 6, 2003. As a result of delays attributable to numerous change orders, the project was not certified as Substantially Complete until June 10, 2004. The Contractor attributed the delays to change orders initiated by both the City and Miami-Dade County and to unforeseen conditions and submitted a construction delay claim to the City on December 23, 2004. The claim presented by TTG (Exhibit B.) included a list of fifteen items that TTG stated were beyond their control and requested a contract time extension of 434 days, with additional compensation totaling \$518,670. An initial review of the documents submitted by TTG was carried out to assess the claim's validity. Of the fifteen delay items submitted, the ADA compliance issues significantly impacted the schedule, as Miami-Dade County added to their initial list of requirements on two separate occasions. Consequently, City staff determined that TTG had the basis for a construction delay claim and proceeded to direct URS Corporation (URS) to conduct an in-depth analysis of the claim and prepare a report of its findings. Independent of URS' analysis, City staff reviewed and categorized each of the project's construction change orders (COs) in terms of what triggered the need for the CO. It was determined that - of a total of fifteen (15) construction change orders representing \$1.1 Million in additional construction costs -close to 75% of the new work was due to changes and/or additions to the original contract scope resulting from Owner Requests (City of Miami Beach and Miami-Dade County). Examples of these additional Owner Requests included: expanding the project scope to include a \$509,953 streetscape component; \$84,765 for a data and voice installation; and additional ADA revisions totaling approximately \$85,000. The change orders submitted by TTG, resulting from unforeseen conditions and design errors and omissions, accounted for only \$201,241 of the project's \$8,298,056 construction cost, or 2.4% of the total. Examples of these change orders include the removal of underground storage tanks and the soil monitoring required as a result of the removal, and the removal of an existing ficus tree. In consideration of the justifiable construction delays, the limited change order percentage, and TTG's total cooperation with the City in negotiating a reasonable settlement and in assisting with the final completion of the project, the Administration recommends that the RDA Board appropriate \$150,000.00 from the City Center RDA Fund.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds		Amount	Account	Approved
OBPI	1	\$150,000	City Center RDA	
	Total	\$150,000	City Center RDA	

Financial Impact Summary:**City Clerk's Office Legislative Tracking:****Sign-Offs:**

Department Director	Assistant City Manager	City Manager
JEC	TH	Jager

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MIAMI BEACH

AGENDA ITEM 3A
DATE 1-11-06



REDEVELOPMENT AGENCY MEMORANDUM

TO: Mayor David Dermer and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: January 11, 2006

SUBJECT: **A RESOLUTION OF THE CHAIRMAN AND MEMBERS OF THE REDEVELOPMENT AGENCY OF THE CITY OF MIAMI BEACH, FLORIDA, APPROPRIATING FUNDS, IN THE AMOUNT OF \$150,000, FROM THE CITY CENTER RDA FUND FOR A SETTLEMENT AGREEMENT, BETWEEN THE CITY AND THE TOWER GROUP, IN FULL AND FINAL SETTLEMENT AND RELEASE OF ALL CLAIMS FOR DAMAGES FOR THE SCOPE OF WORK FOR THE REGIONAL LIBRARY.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

HISTORY

On September 23, 1998, the Mayor and City Commission adopted Resolution No. 98-2904, authorizing the Mayor and City Clerk to execute an Agreement with the firm of Robert A.M. Stern Architects (Stern) for the architectural and engineering design of a Regional Library, a 400 space Parking Garage and Park and Streetscape Improvements in the area surrounding Collins Park.

On January 6, 1999, the Mayor and City Commission authorized appropriation of the funding necessary to implement the Agreement with Stern and authorized an amendment, which reflected a change in scope, deleting the Parking Garage and adding the surface lots. This Agreement, as part of the Master Plan, the demolition of the existing library, once the new building was occupied.

On November 2, 2001, the Regional Library documents were advertised for bid. Six bids were received on December 19, 2001. On April 10, 2002, The Mayor and City Commission accepted a recommendation from the Administration and adopted Resolution No. 2002-24828 awarding the construction contract for the Project to The Tower Group (TTG).

On May 13, 2002, TTG was given Notice to Proceed and Construction began on the new library. At that time, it was expected that a Final Certificate of Occupancy and Substantial Completion would be secured for the new library by the end of August 2003. Numerous delays and schedule extensions were experienced during construction due to several factors. Some schedule extensions were due to City requests, such as the inclusion of the Streetscape construction around the new library building. This was initially envisioned as a stand alone project, however, it was later deemed more efficient to add it to the TTG Agreement. Other schedule extensions were caused by unforeseen conditions, such as the discovery of abandoned underground tanks at the former Fruit Stand site.

Some delays were related to other issues such as document errors and the contractor was compensated for time extensions as change orders were approved. The City diligently worked with both the consultant and the contractor to expedite completion of the Project. A Temporary Certificate of Occupancy (TCO) was secured on June 8, 2004 which allowed building occupancy and is a prerequisite for Substantial Completion, and the Substantial Completion Certificate was obtained by June 10, 2004. Construction work was completed and a Certificate of Occupancy (CO) was issued in November, 2004.

Despite the completion of the Project, TTG continued to work with the City in order to address the issues raised by Miami-Dade County and their regulatory agencies as well as other items that were found to be in need of modification by library staff. This process has taken over nine months to complete. These items included ADA adjustments; installation of an additional drain at the entrance canopy; re-caulking of windows considered by the City to be a warranty issue; and handrails requested by library staff in the entrance ramp, which were not required by code.

ANALYSIS

Following the execution of the construction contract in the amount of \$7,195,069, TTG was issued a Notice to Proceed (NTP) on May 6, 2002. A Contract schedule of 426 days was established with a projected completion date of July 6, 2003. As a result of delays and schedule extensions attributable to the change orders, the project was not certified as Substantially Complete until June 10, 2004. The Contractor attributed the delays to change orders initiated by both the City and Miami-Dade County and submitted a construction delay claim to the City on December 23, 2004. The delay claim presented by TTG (Exhibit B) included a list of fifteen items that it stated were beyond their control and requested a contract time extension of 434 days, with additional compensation totaling \$518,670.

An initial review of the documents submitted by TTG was carried out to assess the claim's validity. Of the fifteen delay items submitted, the ADA compliance issues significantly impacted the schedule, as Miami-Dade County added to their initial list of requirements on two separate occasions. The addition of the Streetscape work also added a significant amount of time to the initial schedule. Both of these scope changes were not within the control of TTG. Consequently, City staff determined that TTG had the basis for a construction delay claim and proceeded to direct URS Corporation (URS) to conduct an in-depth analysis of the claim and prepare a report of its findings (Exhibit A).

URS proceeded to evaluate all available documentation for each of the items submitted by TTG and transferred the data to a baseline construction schedule of 473 days. The baseline construction schedule is the initial schedule established at the time of contract award. This is the schedule that is used to assess contract delays and evaluate time extension claims. It is also used to track progress on the project. It should be noted that the 473-day time extension extrapolated from the baseline schedule using TTG's data, differs from the 434 days presented in their official claim.

The reason for this difference is that the baseline schedules developed by URS for their report used "Early Start" and "Early Finish" dates, based on when the activities should have started, as per the original baseline schedule, as opposed to an "As-Built" schedule. The "As-Built" schedule is a schedule that reflects the actual events in the Project construction and differs from the baseline schedule in that it contains the delays encountered and adjustments made in the prosecution of the work. The baseline schedule was used to compare initial scheduling data submitted by TTG with project management records

maintained by URS. Comparison of the City's project documentation to TTG's claim confirmed that TTG had indeed sustained construction delays and schedule time extensions. URS' analysis established that 162 days of time extensions could be attributable to items for which TTG had little or no control.

The difference in the number of days established by URS and the 434 days submitted by TTG was addressed through a series of negotiations between the administration, URS and TTG. The validity of each item presented as a delay or schedule time adjustment, as well as its impact on the project's critical path was carefully scrutinized. In consideration of the justifiable and compensable time extensions, the cost of prospective litigation, and the fact that TTG continued to work with the City in addressing additional Project modifications, a provisional settlement, in the amount of \$150,000, was offered by the City, subject to agreement by TTG. The offer was subsequently accepted by TTG, without the need for mediation or litigation, in their letter dated December 14, 2005 (Exhibit C).

Independent of URS' analysis, City staff reviewed and categorized each of the project's construction change orders (COs) in terms of what triggered the need for the CO and any impact it may have had on the Project's schedule. It was determined that of a total of fifteen (15) construction change orders representing \$1.1 Million in additional construction costs, close to seventy five percent (75%) of the new work was due to changes and/or additions to the original contract scope resulting from Owner Requests (City of Miami Beach and Miami-Dade County) or unforeseen conditions. Examples of these additional costs included: expanding the project scope to include a \$509,953 Streetscape component; \$84,765 for a data and voice system installation; and additional ADA revisions totaling approximately \$85,000. The change orders submitted by TTG, resulting from other issues and from design errors and omissions, accounted for only \$201,241 of the project's \$8,298,056 construction cost, or 2.4% of the total. The removal of underground storage tanks and the soil monitoring required as a result of the removal, in addition to the removal of an existing ficus tree, account for some of the change orders resulting from unforeseen conditions and design omissions.

The City previously addressed a claim by Stern for additional services which was eventually negotiated to account for their errors and omissions and for the delays that were caused by inconsistencies in the documents. Nevertheless, in these instances, the contractor is usually entitled to compensation for the additional costs as well as for time extensions where applicable. The TTG claim settlement takes into account these issues as well as the additional scope issues previously explained. City staff as well as URS has determined that a number of justifiable and compensable delays are appropriate, and the value of the claim which is being recommended already takes into account those time extension requests and claims for delays which the City deems not applicable. In accepting the settlement offer made by the City, TTG has accepted this assessment of the Project's time extensions and the amount of the compensation offered by City staff.

Considering that projects typically allow a contingency of at least ten percent (10%) of construction costs to account for unforeseen conditions and other possible change orders, speaks well to TTG's performance on the Project, since the total amount of these types of change orders represents only 2.4% of the total project cost which is well within the acceptable range. It is important to note that during the project's duration, TTG never adopted a confrontational or adversarial position; on the contrary, the contractor was instrumental in helping to complete the project without further unnecessary delays. Remedial work was done expeditiously; the change orders resulting from additional ADA

work requested by the County were negotiated at competitive prices and completed in a timely manner; and TTG collaborated with the CIP Office and URS in resolving a number of design-related issues with the Consultant to expedite final completion.

CONCLUSION

In consideration of the justifiable and compensable construction time extensions, the limited change order percentage, and The Tower Group's total cooperation with the City, in negotiating a reasonable settlement and expediting the project to final completion, the Administration recommends approval of the \$150,000 settlement offer to TTG, and recommends that the Redevelopment Agency appropriate funds, in the amount of \$150,000, from the City Center RDA fund.

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RESOLUTION NO. _____

A RESOLUTION OF THE CHAIRMAN AND MEMBERS OF THE MIAMI BEACH REDEVELOPMENT AGENCY (RDA), RATIFYING A SETTLEMENT AGREEMENT AND RELEASE BETWEEN THE CITY AND THE TOWER GROUP IN FULL AND FINAL SETTLEMENT AND RELEASE OF ALL CITY CLAIMS FOR DAMAGES AGAINST BOTH ENTITIES FOR THE SCOPE OF WORK FOR THE REGIONAL LIBRARY PROJECT, IN THE AMOUNT OF \$150,000.00, AND FURTHER APPROPRIATING \$150,000 TO THE CITY FOR SAID SETTLEMENT, FROM CITY CENTER REDEVELOPMENT AREA FUNDS.

WHEREAS, The Tower Group (TTG) was issued a contract by the City of Miami Beach to construct the new City Regional Library, within the Collins area, in the City Center Redevelopment Area; and

WHEREAS, on May 6, 2002 Notice to Proceed (NTP) was issued; and

WHEREAS, the contract schedule of 426 days was established with a projected completion date of July 6, 2003; and

WHEREAS, Substantial Completion was not achieved until June 10, 2004; and

WHEREAS, TTG attributed the delays to change orders initiated by both the City and Miami-Dade County and submitted a construction delay claim to the City on December 23, 2004; and

WHEREAS, a claim presented by TTG included a list of 15-items that it stated were beyond their control and requested a contract time extension of 434 days, with additional compensation totaling \$518,670; and

WHEREAS, an initial review of the documents submitted by TTG was carried out to assess the claim's validity; and

WHEREAS, City staff determined that TTG had the basis for a construction delay claim and proceeded to direct URS Corporation (URS) to conduct an in-depth analysis of the claim and prepare a report of its findings; and

WHEREAS, following the City's initial review of the documents submitted by TTG, an in-depth detailed analysis of all available documentation associated with the claim was conducted by URS Corporation; and

WHEREAS, Comparison of the City's project documentation to TTG's claim confirmed that TTG had indeed sustained construction delays; and

WHEREAS, URS' analysis established that 162 days of delay could be attributable to items for which TTG had little or no control; and

WHEREAS, In consideration of the justifiable construction delays, the limited change order percentage, and The Tower Group's total cooperation with the City, in negotiating a reasonable settlement and expediting the project to final completion a provisional settlement amount of \$150,000 was offered by the City, subject to approval by the Mayor and Commission; and

WHEREAS, the City Administration's offer was subsequently accepted by TTG in its letter, dated December 14, 2005; and

WHEREAS, the Executive Director hereby recommends that the Chairman and Members ratify the attached Settlement Agreement and Release, and jointly approve and authorize the appropriation of \$150,000 from City Center Redevelopment Area funds for said settlement.

NOW, THEREFORE BE IT DULY RESOLVED BY THE CHAIRMAN AND MEMBERS OF THE MIAMI BEACH REDEVELOPMENT AGENCY, FLORIDA that the Chairman and Members hereby ratify the attached Settlement Agreement and Release between the City and The Tower Group, in full and final settlement and release of all claims for damages against both entities for the scope of work for the Regional Library Project, in the amount of \$150,000; and further appropriate to the City for said Settlement, \$150,000 from the City Center Redevelopment Area funds.

PASSED AND ADOPTED this _____ day of _____, 2006.

ATTEST:

CITY CLERK

MAYOR

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

 1-5-05
Redevelopment Agency Date
General Counsel

Exhibit "A"

REGIONAL LIBRARY

**REVIEW OF "THE TOWER GROUPS"
DELAY CLAIM**

for

THE CITY of MIAMI BEACH

by

URS CORPORATION

INDEX

I. Introduction

II. Summary

III. The Tower Group's Claim (Summary Letter)

**IV. Reconstruction of Base Line Schedule Using
The Tower Group's Data**

**V. Reconstruction of Base Line Schedule Using
URS's Data**

VI. TTG's Claim (Details)

Introduction

The Tower Group (TTG) was issued a contract to construct The City Miami Beach Regional Library. On May 6, 2002 an NTP was issued. The Contract schedule of 426 days established a projected completion date of July 6, 2003. Substantial Completion was not awarded until June 10, 2004, 340 days late. The Contractor attributed the delays to the City and submitted a claim to the City on December 23, 2004. A claim presented by TTG listed 15-items that it stated were beyond TTG's control and claimed 434 days of compensation for a total value of \$518,670.

An initial review of the documents submitted by TTG was carried out to assess the claim's validity. Determining that TTG had a basis for a claim a series of meetings was held between the administration, URS and Mr. Tony Burke, President and CEO of TTG. A provisional settlement offer, subject to the approval of the Mayor and City Commission, of One Hundred and Fifty Thousand (\$150,000) was subsequently made to and accepted by TTG.

Summary

Initial review of the TTG claim illustrated that TTG had been impacted by delays for which they had no or little control over. In order to try and resolve the claim without incurring, what would be substantial litigation fees, meetings were held with TTG in order to gain the order of magnitude of a settlement fee that would be acceptable to both the City and TTG. Each delay item was discussed as to its merit, impact on the projects schedule and the actual cost impact to TTG. TTG maintained that should they be forced to seek compensation through litigation they would ask for the full 917 days, or the equivalent of \$1,095,815, as stated in their claim letter of December 23, 2004. With the City still holding retention exceeding \$200,000 the saving in not litigating the case and the fact that TTG continued to work in completing the project a provisional settlement amount of \$150,000 was offered and subsequently accepted, subject to ratification by the Mayor and Commission, by TTG.

Subsequent to the initial review of the documents submitted by TTG an in-depth detailed analysis of the claim was carried out. The analysis included review of all documentation available and transferring, to a project Base Line schedule, first the data as submitted by TTG and second that obtained from the files by URS in order to see the overall impact in each case. The results identified that TTG had sustained some delay for which they were not responsible. The extent of that delay was determined as between 162 days (\$150,000) based on URS data and 473 days (\$518,670) based on TTG data.

The variation in the delay assessed for each scenario is due to two factors. The validity of each item presented as a delay and their impact on the project's critical path.

It should be noted that the delay extrapolated from the baseline schedule using TTG's data, 473 days, differs from that presented in their official claim of 434 days. The reason for this difference is that the baseline schedules included in this report are not "As-Built" schedules but use "Early Start" and "Early Finish" dates based on when the activities should have started based on the original baseline schedule.

In addition the Days Delayed, as shown in the spreadsheet titled "The Tower Group's Delay Claim," are the result of the dates provided by TTG (1120 days) producing "The Tower Group's Position" versus using data in the project files, such as correspondence, RFI's etc., to produce the position representing the ("Facts in Evidence"). The delay days for each of the items (activities) are cumulative and are not meant to represent the actual impact to the overall schedule but only the delay to the individual activity.

A brief description relative to each item within TTG's claim follows:

Item 1. Three unforeseen underground storage tanks:

Three abandoned underground fuel storage tanks where encountered during excavation. The plans provided the contractor made no reference of the tanks and required a remediation report be prepared by the Architect and approved by DERM before work could continue.

Item 2. Two unforeseen underground piles:

Two abandoned underground concrete piles where encountered during construction of the buildings foundation. Contractor's work incurred delay until direction was provided by the Architect.

Item 3. Unforeseen Conflicts with existing underground footings:

Abandoned underground concrete foundations were encountered during construction delaying work until resolution by the Architect.

Item 4. Incorrect survey document:

The survey drawing provided the Contractor did not provide the property boundaries or indicate dimensionally the project limits delaying layout of the work until a revised survey could be provided by the Architect.

Item 5. Tree Conflict:

An existing Ficus tree not identified on the project drawings. Contractor's work incurred delay until a resolution could be provided by Architect.

Item 6. Missing Structural Drawings:

The Contractor was not issued at the time of contract award a set of structural drawings approved by the Building dept. Contractor's work incurred delay until the issue could be resolved by the Architect.

Item 7. Independent Testing Laboratory:

The contract with the Contractor called for the City to provide the services of an independent testing laboratory. Contractor's work incurred delay until the city hired an independent testing laboratory.

Item 8. Independent Threshold Inspector:

The contract with the Contractor called for the City to provide the services of an independent threshold inspector. Contractor's work incurred delay until the city hired an independent threshold inspector.

Item 9. ADA Compliance Inspection:

The first ADA compliance inspection identified certain corrective work. After completion and upon the second ADA inspection a significant number of additional items were requested. Contractor's work incurred delay until the issue could be resolved by the Architect.

Item 10. FDEP Storm Drain Requirements:

The Contractor was advised that an on-site independent environmental monitoring company was required to address potential

contamination concerns. Contractor's work incurred delay until the issue was resolved by the Architect

Item 11. Fire Safety:

The first fire compliance inspection identified issues with the number of sprinkler heads which resulted in a revision to the working drawings. Contractor's work incurred delay until the issue was resolved by the Architect.

Item 12. As-Built Drawings:

The Contractor provided the City's Building Dept. with a set of As-Built drawings in accordance with the contract. The City's Building dept. subsequently requested that they be provided with a set of Signed and Sealed As-Built drawings. Contractor suggests that this was not a contractual requirement and as such he incurred a delay achieving final completion.

Item 13. Emergency Lighting:

The first fire compliance inspection identified a deficiency in the lighting design levels. Contractor's work incurred delay until the issue was resolved by the Architect.

Item 14. Fire Dampers Access:

Duct rough-in was not approved initially by the City's Building department. The Building department requested that the Architect provide a letter stating that the dampers were preset and did not require local access. Contractor's work incurred delay until the issue was resolved by the Architect.

Item 15. Special Reading Room - Ducting:

Modifications were required to the duct layout and lighting to accommodate the light cove. Contractor's work incurred delay until the issue was resolved by the Architect.

Of the 15-delay items submitted, the ADA compliance issues (item-9), proved to be significant with the County adding to their list of requirements on two separate occasions. Not all of the items were code requirement and work carried out by County employees on the window frames rather than being remedial in nature is contrary to the manufacturer's specifications. Also, last minute changes required by the County including the exterior ramp handrail have only just been completed.

TTG has provided a letter, a copy of which is included herein, stating that their delay claim encompasses all issues of time on the project from inception through to Final Completion of the project.

Review of The Tower Group's Claim

<u>TTG CLAIM DATA (as Submitted):</u>		
Days Delayed in Calendar Days	434	
Compensation Requested	\$ 518,670	
Claim Equivalent in \$/day	\$ 1,195	

<u>URS EVALUATION RESULTS:</u>		
From TTG DATA		From URS DATA
NTP	5/6/2002	5/6/2002
Original SC	7/6/2003	7/6/2003
Obtainable Substantial Completion	10/21/2004	12/15/2003
	473	162
	\$ 1,195	\$ 150,000
	\$ 1,097	\$ 926
		per day
		Calendar days

THE TOWER GROUP'S DELAY CLAIM

The Tower Group's Position Vs Facts in Evidence

ITEM No.	Description of Item	Days Delayed	Work Start/Placed on "Hold"	Work Completed /Resumed	Days Delayed	Work Placed on "Hold"	Work Resumed	Remarks	
			According to TTG			According to City			
1	U/G Fuel Storage Tanks (3) Contamination.	277	7-Aug-02	28-Aug-03	162	9-Sep-02	18-Feb-03	Unforeseen condition identified & notification given by TTG on 8/8/03 and work put on "Hold." TTG's work resumed 8/29/03. Impact on schedule: (review other work that could proceed/did proceed/impact on critical path).	
2	U/G Piles	27	13-Jun-02	21-Jul-02	0	9-Sep-02	18-Feb-03	Unforeseen condition. Delay covered under item #1	
3	U/G Footings	115	16-Jul-03	23-Dec-03	0	9-Sep-02	18-Feb-03	Unforeseen condition. Delay covered under item #1	
4	Incorrect Survey Provided by City	20	14-May-02	10-Jun-02					
5	Tree Removal	25	17-May-02	20-Jun-02		24-May-02	14-Jun-02		
6	Delay in Providing Structural Drawings	27	6-May-02	11-Jun-02	21			"Days Delayed" includes items 1, 3, 4, 7, 8, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000	
7	Delay by City for not Providing Independent Testing Laboratory	14	12-Jun-02	1-Jul-02					
8	Delay by City for not Providing Threshold Inspection Co.	6	20-Jun-02	1-Jul-02					
9	ADA Compliance Issues	102	10-Jun-04	29-Oct-04	71	10-Jun-04	29-Oct-04	Work should have been carried out during normal schedule with the exception of those items covered under C.O.'s 14, 78 & 79 so am providing a 50% credit to the time asked by TTG.	
10	Storm Drainage	19	10-Sep-02	23-Feb-03	0	9-Sep-02	18-Feb-03	Unforeseen condition. Contaminated soil. Stop work ordered. Time delay covered under item #1.	
11	Fire Sprinkler Revisions Required by Fire Marshal	99	21-Oct-03	5-Mar-04	14	20-Oct-03	3-Nov-03	Additional Sprinklers required by Fire Marshal	
12	Red Lined Drawings - Sign & Seal Requirement	150	22-Mar-04	22-Oct-04	0			Required by permit & Department of Contract Services. Time delay applicable.	
13	Emergency Lights	159	23-Oct-03	1-Jun-04	63	15-Sep-03	17-Nov-03	Room 204 no emergency lighting specified.	
14	Access to Duct Dampers	38	27-Feb-03	21-Apr-03	20	14-Feb-03	21-Apr-03	No access to ductwork specified.	
15	Redesign of Ductwork (special reading room)	42	21-Feb-03	21-Apr-03	0	1-Apr-03	21-Apr-03	Delay is for the same period as item #14. Therefore no delay applicable.	
TOTALS		1120			351				

Exhibit "B"



TTG Letter No. 0207 - 00234

December 23, 2004

Mr. Mauro Burigo, P.E.
CITY OF MIAMI BEACH
1700 Convention Center Drive
Miami Beach, FL. 33139

Reference: *Miami Beach Regional Library
City of Miami Beach Project No. 9802*

Subject: *Request for Compensation Regarding Extended Field Conditions
Based on Changes to the Project*

Dear Mr. Burgio

As you are aware, this project has endured many significant delays as a result of changes to the work, unforeseen obstructions, and changes by jurisdictional departments. Pursuant to your direction, we have summarized the following items of work which had the most severe impact on the project. This schedule allowed for the quantification of time lost as a result of these impacts. Attached hereto, is a spreadsheet depicting the time allocations for the extended field conditions for which TTG is basing this request for compensation. Each Activity ID represents a corresponding section of the request documentation to further substantiate the entitlement for each occurrence as follows:

Item 1. Three Unforeseen underground storage tanks and corresponding handling of contaminated material on site. The total duration of this extra work was 277 days from the date of notification to the completion of the work.

Item 2. Two unforeseen underground piles impacting the installation of the footers for the library structure. The total duration for this unforeseen condition was 27 days from the date of notification until the crew was able to regain its current position prior to the underground discovery of the piles.

Item 3. Unforeseen conflicts with existing underground footings impacting the installation of the new footers for the library structure. The total duration for this unforeseen condition was 115 days from the date the obstructions were discovered until the subcontractor was able to continue with the work.

Item 4. Delays associated with an incorrect survey provided as part of the contract documents. The duration for this unknown condition was 20 days from the date of notification until the issue was resolved.

Item 5. A Ficus Tree within the foot print of the new library had to be removed. This tree was to be removed by the City prior to Notice-to-Proceed to the Tower Group. The duration of the unplanned event was 25 days from the date from notification until the tree was removed. A tree removal permit from DERM was required and is responsible for a significant portion of the time involved.

Item 6. The contract documents did not contain the necessary structural drawings. These drawings were still with the Building Department at the time the Notice-to-proceed was issued. TTG acquired these drawings after 27 days.

Item 7. Pursuant to the contract documents, the Owner is to hire an independent testing laboratory to perform the field testing. The Owner was notified by TTG that one had not been appointed prior to June 12, 2002. After 14 days, LAW Engineering was present and the construction continued.

Item 8. Pursuant to the contract documents, the Owner is to provide an independent engineering firm to be the Threshold inspector of record. On June 20, 2002, TTG was refused inspection by the City's building Department. The City quickly responded to this request for corrective action to mitigate the time loss to 6 days.


Item 9. TTG Complete the project in accordance with the contract documents. However, during the first ADA compliance inspection, four items required corrective action. Subsequently, during the re-inspection, a significant number of items which required corrective action were added. These items have been quantified with respect to the cost of the work in Change Order No. 14. The duration of these changes by the building department was a total of 102 days.

Item 10. The storm drain revisions were the result of a request by the Department of Environmental Resources. TTG was provided with revised permitted drawings and the subcontractor, which demobilized at the start of this issue, returned on February 23, 2003. The total impact of this revision was 19 days.

Item 11. TTG Complete the project in accordance with the contract documents. However, during the first Fire compliance inspection, several items required corrective action. Most importantly, the designed quantity of fire sprinklers did not meet the necessary coverage. Subsequently, the building was re-evaluated and a redesign resulted in order to meet the fire marshal's requirements for approval. The duration of these changes by the fire department was a total of 99 days.

Item 12. TTG supplied the owner with a complete set of Red line as-built drawings as required by the contract documents. The redline drawings were put into Auto-CAD format and submitted to the City Building Department. These drawings were rejected because they were not signed and sealed as required by the Building Department. After almost five months, TTG hired a registered professional engineer to evaluate the drawings and issue a signed and sealed version to the building department in order to minimize any further delays.

Item 13. TTG Complete the project in accordance with the contract documents. However, during the first Fire compliance inspection, several items required corrective action. Most importantly, the designed quantity of emergency lights did not meet the necessary coverage. Subsequently, the building was re-evaluated and a redesign resulted in order to meet the fire marshal's requirements for approval. The duration of these changes by the fire department was a total of 159 days.



Item 14. TTG Complete the project in accordance with the contract documents. However, during the first duct rough-in inspection, the inspection was declared a fail by the building department due to failure to have access to the cut damper controls. The building department requested a letter from the design professionals stating the dampers are preset and locked in place. This letter was provided in a timely manner. However the sequence of construction for this change was significant and unplanned. The balancing of air flows, without the ceiling being installed or the electrical circuits being terminated and complete, created a hardship for the subcontractor. This unplanned change created inefficiencies in the performance of his scope of work. The total impact resulted in a net 38 day time impact to the project.

Item 15. The duct work was modified to accommodate the light cove in front of the Special Reading room Entrance. The Architect was quick to provide a solution and redesign of the duct work in order to minimize the delays. The ceiling height was adjusted, the duct size was reduced, and the light fixtures were changed to accommodate this situation. The total impact of this redesign was 42 days.

Although each item contains a period of time which was impacted by the aforementioned changes, many of these time impacts are concurrent compensable days. The Tower Group bid this project with a planned field condition cost for four hundred twenty-six (426) days. The duration of the project exceeded Nine hundred seventeen (917) days. TTG has been compensated for most of the cost related to the actual changes in the work. On each occasion, we have reserved the right to request additional compensation for extended field (general) conditions.

Pursuant to the attached cost breakdown, The Tower Group respectfully submits this Request for Compensation in the amount of \$518,670.00 and a contract time extension of 434 days. We will gladly meet with you to discuss the components of this document. Similarly, we are confident you will agree with the entitlement and amount of this request.

TTG stands ready to assist in anyway possible to bring closure to this issue and complete this very important project. Please feel free to contact the undersigned should you have any questions.

Sincerely,

Stephen Decker
Division Manager

Cc: Mr. Jim Borrelli, B&A
Mr. Jorge Chartrand, CMB
File

Exhibit "C"



General
Contractors

Construction
Management

Construction

Design-Build

Planning

Site Development

Infrastructure

Consulting

Estimating

Scheduling

Value Engineering

Post Construction

December 14, 2005

Fax: 305-884-2665

Stephen Bauman
Construction Manager
URS CORPORATION
7650 Corporate Center Drive
Suite #401
Miami, Florida 33126-1220

RE: MIAMI BEACH LIBRARY SETTLEMENT

Dear Steve:

The purpose of this letter is to inform you and The City of Miami Beach, that Tower Group will not be seeking any additional damages, overhead, profit or funds beyond the settlement agreement that the parties have accepted (\$150,000.00).

Thank you for your assistance in settling this matter and we look forward to closing out the project.

Sincerely,

Anthony J. Burke, CEO